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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	09/734,496	FEINBERG ET AL.
	Examiner	Art Unit	
	OMAR PARRA	2421	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>01 June 2010</u>.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>22-35</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>22-35</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments with respect to claims 22-35 have been considered but are moot in view of the new ground(s) of rejection.

Although a new ground of rejection is presented, the Examiner believes necessary to address some of applicant's arguments for clarification purposes. Applicant argues that *"Terreault fails to disclose, teach or suggest collecting, by a monitoring and control unit located remote from at least one head-end, capability information for each of a plurality of remote devices off-site personnel"*, pages 7 and 8, Remarks section. To this matter, the examiner respectfully disagrees.

Terreault teaches that the computer is programmed for a remote mode, in which after receiving status data from the monitored headend, it's able to automatically communicate, through network manager system with multiple remote devices; col. 13 lines 23-56. Terreault specifically teaches that during this mode, the system will automatically contact on-duty or off-duty staff through pager or email messages, col. 13 lines 50-56). In other words, in order for the system to automatically send messages, information about the on-duty and off-duty staff and the remote devices they are using must have been input to the computer.

The new language for the limitation recites "collecting by the monitor and control unit capability information…" However, after reviewing applicant's specification, "collecting" is not more (or it's the same as) than manually inputting

the information by an operator through a computer interface (Specification, page 26 lines 3-7). Therefore, the examiner respectfully believes that Terreault still reads on the new language of the claim, as explained above.

Additionally, applicant argues that "*Terreault fails to suggest processing the status relating to the operation of the head-end elements to identify problems associated with head-end elements and to generate report messages for the off-site personnel based on the identified problems*", Remarks section page 8. To this matter, the examiner respectfully disagrees.

As correctly pointed out by the applicant (Remarks section, page 8), Terreault monitors the levels of headend elements and if they pass predetermined threshold levels, alarm messages are sent to remote personnel devices based on the identification of the threshold been exceeded. Terreault receives the readings of the operation of the elements and compares them to the predetermined threshold values (which is processing the received information) and if a problem is identified (if they exceed said predetermined values); a message is generated and sent to the remote devices (Abstract; col. 9 lines 6-43; col. 13 lines 17-56).

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims **22-27, 33, and 35** are rejected under 35 U.S.C. 103(a) as being

unpatentable over Terreault (Patent No. 7,254,827) in view of Jahn et al.

(hereinafter 'Jahn', Patent No. 7,111,205).

      Regarding claim 22, Terreault teaches a method for monitoring,

operations of a head-end in an information distribution system, the method

comprising:

      receiving, at a monitor and control unit <u>located</u> status relating to

operations of head-end elements providing content to terminals within a

coverage area of the head-end elements **(the computer receives data and

notifications from return path RF detectors on the headends, sub-

headends, CMTs and other network devices; col. 4 lines 38-49; col. 9 lines

6-44; col. 12 lines 46-61. The return path RF detectors, as well as the

spectrum analyzers and the broadband analyzers, col. 13 lines 3-23, are

related or are headend elements**);

      collecting by the monitor and control unit, identity, type and capability of a

plurality of remote devices **(the computer is programmed for a remote mode

in which after receiving status data from the monitored headend, it's able to

automatically communicate, through network manager system, with

multiple remote devices. The messages go from paging and e-mails; col. 13

lines 23-56);**

      processing the status relating <u>to the operations of the head-end elements</u>

<u>to identify problems associated with the head-end elements and to generate</u>

report messages for the off- site personnel based on the identified problems

(Terreault monitors the levels of headend elements and if they pass predetermined threshold levels, alarm messages are sent to remote personnel devices based on the identification of the threshold been exceeded. Terreault receives the readings of the operation of the elements and compares them to the predetermined threshold values (which is processing the received information) and if a problem is identified (if they exceed said predetermined values), a message is generated and sent to the remote devices (Abstract; col. 9 lines 6-43; col. 13 lines 17-56);

forwarding the processed status from the monitor and control unit to a communication server **(control computer 23 communicates with network management system 103, for a higher level of network operation, col. 12 lines 46-61; col. 13 lines 3-10)**; and

sending the processed status received by the communication server to the designated remote devices to present the report messages to the off-site personnel associated with the designated remote devices for troubleshooting the operations of the head-end elements **(col. 13 lines 23-56)**.

On the other hand, Terreault does not explicitly teach that the monitor and control unit is remote from at least one head-end, collecting by the monitor and control unit capability information for each of a plurality of remote devices of off-site personnel including an identity of each of the plurality of remote devices, a device type of each of the plurality of remote devices, a device format supported by each of the plurality of remote devices and a reporting level associated with

<u>each of the plurality of remote devices</u> and forwarding the report messages from

the monitor and control unit to a communication server <u>for routing to at least one</u>

<u>of the plurality of remote devices designated from the plurality of remote devices.</u>

     However, in an analogous art, Jahn teaches a system that automatically

reports faults in a network (at least, title, abstract; col. 3 lines 4-30). Jahn

teaches that the monitoring server remotely monitors different devices that

connect to different computers on the network (210, Fig. 1; col. 3 lines 10-30).

Multiple aspects are monitored such as software and hardware failures and/or

traffic statistics like overload conditions (col. 5 lines 37-34). Jahn teaches that the

monitoring devices analyze and decide if a fault should be reported. A report and

a recommended solution is generated and sent to multiple devices of personnel

that could repair the fault (col. 4 line 51-col. 5 line 23; col. 6 lines 4-23 and lines

47-64). The report can be sent directly from the report generation entity or from a

centralized console (col. 6 lines 54-64). The system uses a predetermined

distribution list containing the different devices which could be pagers, email

capable, control consoles, etc. From the list, the system is able to recognize

which type of device it is, and format the message based on the designated type

of the communication device for which it is intended (col. 4 line 51-col. 5 line 23;

col. 6 lines 4-23 and lines 47-64).

     Therefore, it would have been obvious to one of ordinary skill in the art at

the time of the invention to have modified Terreault's invention with Jahn's

transmission of the report through a server or communication entity and keeping

record of a list of devices for formatting the message according to capability of

the receiving device for the benefit of reducing the task load of the monitoring

device and for being able to send clear messages (in the proper format) to the

devices that are to receive the report messages.

Regarding claim 23, Terreault and Jahn teach further comprising:

receiving a response message at the communication server from the

remote devices sent the status from the head-end; forwarding, from the

communication server, the response message to the monitor and control unit;

and forwarding the response message, received by the monitor and control unit

from the server, to a responsible entity in a targeted head-end, wherein the

received response message from the at least one remote device includes a

command to adjust a parameter of an operation performed by an element at the

targeted head-end **(the user can remotely take control of the devices at the**

headend as a response to the alarms, col. 13 lines 29-50. Following, as

stated the flow of communication above -headend communicates to control

computer 23, which can control headend devices and communicates with

the network manager 103 for a higher level of networking and

communication with remote devices- the control signals from the remote

device have to follow the same path in opposite direction).

Regarding claim 24, Terreault and Jahn teach further comprising:

receiving indications of error conditions relating to the one or more

operations elements of the head-end; **(Terreault: col. 8 lines 13-31; col. 9 lines**

6-35); and

forwarding one or more alert messages to the one or more remote devices

in response to receiving the indications **(Terreault: col. 13 lines 23-56)**.

Regarding claim 25, Terreault and Jahn teach further comprising:

polling a plurality of head-ends for status relating to the operations

elements of the head-end **(Terreault: col. 3 lines 42-53; col. 4 lines 38-54)**.

Regarding claim 26, Terreault and Jahn teach wherein the collected

device format supported by each of the plurality of remote devices comprises

text, graphics, or a combination thereof **(Terreault: the status messages are**

sent on text pager or email messages or the trace signals are sent for

display if the remote display is for example, an Avatron Spectrum Analyzer;

col. 13 lines 35-56. Jahn: col. 6 lines 48-64).

Regarding claim 27, Terreault and Jahn teach wherein status of the

elements of the head-end are forwarded to the remote devices in conformance

with the indicated reporting level **(Terreault: computer 23 causes alarms only**

if alarm thresholds are reached, col. 13 lines 17-21; and can send alarm

messages depending they type of the alarm, col. 13 lines 23-56. Jahn: the

fault is reported depending if it is believed to be of certain level -reportable,

or it is only logged if it is not; col. 5 line 37-col. 6 line 15).

Regarding claims 33 and 35, Terreault and Jahn teach wherein at least

one of the plurality of remote devices is a wireless device **(Terreault: alarm**

messages can be sent to pager devices which are wireless devices, col. 13

lines 52-56. Jahn: col. 6 lines 4-15).

4.   Claims **28-32 and 34** are rejected under 35 U.S.C. 103(a) as being

unpatentable over Terreault (Patent No. 7,254,827) in view of Jahn et al.

(hereinafter 'Jahn', Patent No. 7,111,205) in further view of Pandya et al.

(hereinafter 'Pandya', Patent No. 6,671,724).

Regarding claims 28-32, Terreault and Jahn teach all the limitations of the

claims they depend on. On the other hand, although Terreault and Jahn teach

monitoring status on performance of a headend, he does not explicitly teach

monitoring status of other operations performed at the headend related to status

for one or more buffers for encoding data, relating to multiplexing, to a particular

transport stream and to bit rates for a plurality of data being provided at the

headend.

However, in an analogous art, Pandya teaches a method for monitoring

from a remote location operations of a headend or server/network resources in a

in distribution system (col. 4 lines 40-61). Among the operations monitored by the

system: status of one or more buffers used to store encoded data (col. 11 line

24-col. 12 line 29), multiplexing operations (col. 14 line 45-col. 16 line 28), status

relating to a particular transport stream (col. 9 line 66-col. 11 line 15) and status

related to bit rates of types of data (col. 11 line 36-col. 12 line 29).

Therefore, it would have been obvious to one of ordinary skill in the art at

the time of the invention to have modified Terreault and Jahn's invention with

Pandya's featuring of monitoring status of the multiple other headend's

operations for the benefit of having a more comprehensive and detailed control of

the performance of the headends in all their areas.

Regarding claim 34, Terreault and Jahn teach all the limitations of the

claim it depends on. On the other hand, although Terreault and Jahn teach being

able to send messages to pagers, he does not explicitly teach that the remote

device is a cellular telephone.

However, in an analogous art, Pandya teaches having cellular telephones

as part of the devices that can be a control point or agent (terms given to devices

that can monitor or being monitored, respectively; col. 4 lines 30-col. 67).

Therefore, it would have been obvious to one of ordinary skill in the art at

the time of the invention to have modified Terreault and Jahn's invention with

Pandya's feature of having a cellular phone being a device that receives

monitoring data for the benefit of having the most common mobile device with

graphics, text and even video capability.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OMAR PARRA whose telephone number is (571)270-1449. The examiner can normally be reached on 9-6 PM (M-F, every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John W. Miller/
Supervisory Patent Examiner, Art Unit 2421

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